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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,592	06/25/2001	Alex D. Starkovich	ITL1693US (P10394)	2119
21906 7590 09/05/2008 TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631				
EXAMINER RAMPURIA, SHARAD K				
ART UNIT 2617		PAPER NUMBER		
MAIL DATE 09/05/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/891,592

Applicant(s)

STARKOVICH ET AL.

Examiner

SHARAD RAMPURIA

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-8, 10, 24 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 10, 24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/21/2008 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-4, 7-8, 24, 26 are rejected under 35 U.S.C. 102 (e) as being anticipated by

Mousseau; Gary P. et al. [US 6438585 B2].

As per claim 1, **Mousseau** teaches:

A method (Abstract) comprising:

receiving in a wireless communication network a message from a user of the portable communication device together with an instruction to cause the network to transmit the message

at a predetermined time; (e.g. the message sent upon triggering the time/condition based on the particular profile; Col.12; 31-Col.13; 34)

storing the message and the instruction on said network; and transmitting the message from the network at the predetermined time. (e.g. the message sent upon triggering the condition; Col.12; 31-Col.13; 34)

Regarding Claim 3, Mousseau disclosed the method of claim 1, further comprising specifying the user defined event. (e.g. the user-define triggering condition; Col.12; 31-Col.13; 34)

Regarding Claim 4, Mousseau disclosed The method of claim 3, wherein specifying the user defined event includes specifying the date and time for transmission of the message. (e.g. the triggering condition include certain time/day; Col.12; 31-Col.13; 34)

Regarding Claims 7, Mousseau disclosed the method of claim 3 wherein specifying the user defined event includes specifying an acceptable security level at which the message is to be sent. (Col.8; 8-18)

Regarding Claims 8, Mousseau disclosed the method of claim 3 wherein specifying the user defined event includes specifying an acceptable distance from a base station at which the message is to be sent. (e.g. vicinity; Col.7; 37-59)

Claims 24, 26 are a computing platform, claim corresponding to method claims 1, 3 respectively, and rejected under the same rational set forth in connection with the rejection of claims 1, 3 respectively, above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 5, 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mousseau in view of Gorsuch, Thomas E. (US 20020160764 A1).

Regarding Claim 5, Mousseau disclosed all the particulars of the claim except wherein specifying the user defined event includes specifying an acceptable cost level at which the message is to be sent. However, Gorsuch teaches in an analogous art, that the method of claim 3, wherein specifying the user defined event includes specifying an acceptable cost level at which the message is to be sent. (e.g. the pricing plan; ¶ 0051). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to including wherein specifying the user defined event includes specifying an acceptable cost level at which the message is to be sent in order to provide a system employs pricing tiers, which represent each subscriber's mobility-based privileges to specific content.

Regarding Claims 27-28, Mousseau disclosed all the particulars of the claim except an acceptable quality of service level. However, Gorsuch teaches in an analogous art, that the article of claim 26, wherein the instructions, when executed, further result in specifying an acceptable quality of service level at which the message is to be transmitted. (e.g. the pricing plan; ¶ 0063).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mousseau in view of Cohen; Marc (US 6862445 B1).

Regarding Claim 6, the above combination disclosed all the particulars of the claim except the user defined event includes specifying an acceptable transmission power level at which the message is to be sent. However, Cohen teaches in an analogous art, that the method of claim 3, wherein specifying the user defined event includes specifying an acceptable

transmission power level or distance at which the message is to be sent. (Col.3; 31-46)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include the user defined event includes specifying an acceptable transmission power level at which the message is to be sent in order provide transmission power control method in achieving the target.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mousseau in view of Mooney; Philip D. et al. (US 6606504 B1).

Regarding Claim 10, Mousseau disclosed all the particulars of the claim except wherein transmitting the message includes wirelessly transmitting the message to a receiver and disabling a ringing function of the receiver. However, Mooney teaches in an analogous art, that the method of claim 1, wherein transmitting the message includes wirelessly transmitting the message to a receiver and disabling a ringing function of the receiver. (Col.2; 41-56, Col.3; 43-45) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to including wherein transmitting the message includes wirelessly transmitting the message to a receiver and disabling a ringing function of the receiver in order to provide a method of remotely deactivate the ringing mode of mobile.

Response to Amendments & Remarks

Applicant's arguments with respect to claims 1, 3-8, 10, 24, 26-28, have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

EBC@uspto.gov.

/Sharad Rampuria/
Primary Examiner
Art Unit 2617